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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/674,782

09/30/2003

Charles C. Freeny JR.

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EXAMINER

DANNEMAN, PAUL

ART UNIT

PAPER NUMBER

3627

MAIL DATE

DELIVERY MODE

02/28/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/674,782	Applicant(s) FREENY, CHARLES C.	
	Examiner PAUL DANNEMAN	Art Unit 3627	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 30 September 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-16 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-16 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 30 September 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>30 September 2003</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Status of Claims

1. This action is in response to the application filed on 30 September 2003.
2. Claims 1-16 have been examined.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claims 1-16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Barker et al., US 2002/0143934 A1 henceforth known as Barker.

5. **Examiner's note:** Examiner has pointed out particular references contained in the prior art of record in the body of this action for the convenience of the Applicant. Although the specified citations are representative of the teachings in the art and are applied to the specific limitations within the individual claim, other passages and figures may apply. Applicant, in preparing the response, should consider fully

the **entire** reference as potentially teaching all or part of the claimed invention, as well as the content of the passage as taught by the prior art or disclosed by the Examiner.

Claims 1 and 14:

With regard to the following limitations:

- ***Store sensor automatically outputting signals indicative of activity sensed.***
- ***Computer receiving activity signals and generating a tracking signal indicative of a predetermined activity.***

Barker in at least paragraphs [0002 and 0013], Fig.1 and Fig.2 discloses a security monitoring network for providing variable, remote monitoring of a locally detected event by a premises server in communication with a central server. The central server receives the sensor data and traverses one or more logical rule sets to determine whether the sensor provided data violated the rules. Therefore, it would be obvious, at the time of the invention, to one of ordinary skill to acknowledge that Barker's security monitoring network with its sensors and the logical rule sets used to determine if the sensor data received in response to an activity has met or exceeded a preset or predetermined activity is similar to applicant's invention.

Claims 2-6, 8, 10, 12 and 15-16:

With regard to the following limitations:

- ***Receiving electronic information indicative of a store's customer activity.***
- ***Generating an expected revenue signal based on customer activity.***
- ***Store control unit is an internet web site.***

Barker does not specifically disclose an expected revenue signal based on customer activity per se, However, Barker in at least paragraphs [0033 and 0047], Fig.2, and Fig.5 discloses various types of monitoring devices like video and still cameras, and biometric identification devices (facial, retinal, fingerprint and voice) integrated to existing information systems such as inventory control systems, accounting systems, or the like. Barker further discloses in paragraph [0033]

that it would be apparent to one skilled in the relevant art that additional or alternative monitoring devices may be practiced with the present invention. Barker in at least paragraph [0052] and Fig.6 still further discloses the use of monitoring device rules containing data indicating one or more ranges for determining a rule violation. Barker in at least paragraph [0066] still further discloses that the invention is usable over a standard Internet web browser. Therefore, it would be obvious, at the time of the invention, to one of ordinary skill in the art to conclude that Barker's monitoring devices which are integrated via the internet to an inventory control system, accounting systems, or the like could produce an expected revenue signal based on customer activity as claimed by the applicant's invention.

Claims 7, 9, 11, and 13:

With regard to the following limitations:

- ***Discrepancy between the actual time period based revenue signal and the expected revenue signal results in an alert signal.***

Barker does not specifically disclose an expected revenue signal based on customer activity at a specific time or within a specific period per se. However, Barker in at least paragraphs [0058 through 0067], Fig.7A, Fig.7B, and Fig.8 discloses an input signal from a sensor being compared to a rule and the action taken in response to an evaluation of the signal data with the rule conditions. Therefore, it would be obvious, at the time of the invention, to one of ordinary skill to determine that the security monitoring system, its devices and associated rules can evaluate a baseline signal against sensor data to determine a course of action such as generating an alert signal or activating some other form of notification means.

Conclusion

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to PAUL DANNEMAN whose telephone number is (571)270-1863. The examiner can normally be reached on Mon.-Thurs. 6AM-5PM Fri. off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Florian Zeender can be reached on 571-272-6790. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Paul Danneman/

Examiner, Art Unit 3627

28 January 2008

/F. Ryan Zeender/

Supervisory Patent Examiner, Art Unit 3627